

**UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF OHIO
WESTERN DIVISION**

Larry Tatum,
Petitioner

v. Case No. 1:07-cv-355

Warden, Allen
Correctional Institution,
Respondent

ORDER

This matter is before the Court on the Magistrate Judge's Report and Recommendation filed March 19, 2008 (Doc. 7).

Proper notice has been given to the parties under 28 U.S.C. § 636(b)(1)(C), including notice that the parties would waive further appeal if they failed to file objections to the Report and Recommendation in a timely manner. See United States v. Walters, 638 F.2d 947 (6th Cir. 1981). As of the date of this Order, no objections to the Magistrate Judge's Report and Recommendation have been filed.

Having reviewed this matter de novo pursuant to 28 U.S.C. § 636, we find the Magistrate Judge's Report and Recommendation correct.

Accordingly, it is **ORDERED** that the Report and Recommendation of the Magistrate Judge is hereby **ADOPTED**. Respondent's motion to dismiss is **GRANTED**, and petitioner's petition for writ of habeas corpus is **DISMISSED** with prejudice.

A certificate of appealability will not issue with respect to the claims alleged in Grounds Two through Five and Eight of the petition, which are barred from review on procedural statute of limitations grounds.

A certificate of appealability also will not issue with respect to the claims alleged in Grounds One, Six, Seven, Nine, Ten, and Eleven of the petition, because petitioner has not made a substantial showing that he has stated “viable claim[s] of the denial of a constitutional right” or that the issues presented are “adequate to deserve encouragement to proceed further.” *See Slack*, 529 U.S. at 475 (citing *Barefoot v. Estelle*, 463 U.S. 880, 893 & n.4 (1983)); *see also* 28 U.S.C. § 2253(c); Fed .R. App. P. 22(b).

This Court certifies that pursuant to 28 U.S.C. § 1915(a)(3) an appeal of this Order would not be taken in good faith, and therefore DENIES petitioner leave to appeal *in forma pauperis*. *See* Fed. R. App. P. 24(a); *Kincade v. Sparkman*, 117 F.3d 949, 952 (6th Cir. 1997).

Date: April 11, 2008

s/Sandra S. Beckwith
Sandra S. Beckwith, Chief Judge
United States District Judge